

Customs Bulletin

Regulations, Rulings, Decisions, and Notices
concerning Customs and related matters



and Decisions

of the United States Court of Customs and
Patent Appeals and the United States
Court of International Trade

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THE DEPARTMENT OF THE TREASURY
U.S. Customs Service

NOTICE

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U.S. Customs Service

Treasury Decisions

(T.D. 81-259)

White or Irish Potatoes, Other Than Certified Seed—Tariff-Rate Quota

Tariff-rate quota for the quota year beginning September 15, 1981, for white or Irish potatoes, other than certified seed.

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Announcement of the quota quantity for white or Irish potatoes, other than certified seed, for the 12-month period beginning September 15, 1981.

SUMMARY: The tariff-rate quota for white or Irish potatoes, other than certified seed, pursuant to item 137.25, Tariff Schedules of the United States (TSUS), for the 12-month period beginning September 15, 1981, is 45 million pounds.

EFFECTIVE DATES: The 1981 tariff-rate quota is applicable to white or Irish potatoes described in item 137.25, TSUS, entered, or withdrawn from warehouse, for consumption during the 12-month period beginning September 15, 1981.

FOR FURTHER INFORMATION CONTACT:

Linda L. Mays, Acting Head, Quota Section, Duty Assessment Division, Office of Commercial Operations, U.S. Customs Service, Washington, D.C. 20229 (202-566-8592).

SUPPLEMENTARY INFORMATION: Each year the tariff-rate quota for potatoes described in item 137.25, TSUS, is based on the estimate by the Department of Agriculture of potatoes produced during the calendar year.

The estimate of the production of white or Irish potatoes including seed potatoes, in the United States for the calendar year 1981, made by the United States Department of Agriculture as of September 1, 1981, was in excess of 21 billion pounds.

In accordance with Headnote 2, Part 8A, of Schedule 1, Tariff

Schedules of the United States, the quota quantity is not increased because the estimated production is greater than 21 billion pounds.

(QUO-2-CO:T:D:SO)

Dated: Sept. 29, 1981.

WILLIAM T. ARCHY,
Acting Commissioner of Customs.

[Published in the Federal Register, Oct. 13, 1981 (46 FR 50457)]

(19 CFR Parts 132, 141, 142)

(T.D. 81-260)

Customs Regulations Relating to Quota Merchandise, Statistical Information, and Merchandise Released Under the Immediate Delivery Procedure

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: The "Customs Procedural Reform and Simplification Act of 1978," made significant changes in the Customs laws relating, in part, to the entry and warehousing of imported merchandise. Customs Regulations amendments implementing these changes were published; however, several sections of the Customs Regulations needed further changes. This document amends the Customs Regulations to:

- (1) Clarify the procedure relating to quota merchandise when the quota is nearing fulfillment;
- (2) Remove a mandatory requirement to aggregate statistical information from multiple invoices;
- (3) Clarify the circumstances under which a district director may authorize release of merchandise from warehouse under a special permit; and
- (4) Clarify what documentation may be filed after merchandise is released under the immediate delivery procedure.

EFFECTIVE DATE: November 9, 1981

FOR FURTHER INFORMATION CONTACT: Relating to quota merchandise—Bill Slyne, Duty Assessment Division, (202-566-2957); Relating to statistical information—William L. Marchi, Duty Assessment Division, (202-566-8235); Relating to merchandise released under the immediate delivery procedure—Benjamin H. Mahoney, Entry Procedures and Penalties Division, (202-566-5778). U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

SUPPLEMENTARY INFORMATION:

BACKGROUND

Pub. L. 95-410, the "Customs Procedural Reform and Simplification Act of 1978," made significant changes in the Customs laws relating, in part, to the entry and warehousing of imported merchandise. Final amendments to the Customs Regulations implementing these changes were published in the Federal Register on August 9, 1979, as T.D. 79-221 (44 FR 46794).

Based upon our experience and further review, Customs determined that several sections of the Customs Regulations amended by T.D. 79-221 needed further changes. Accordingly, on December 30, 1980, Customs published a notice of proposed rulemaking (NPRM), in the Federal Register (45 FR 85781), to amend the following sections of the Customs Regulations (19 CFR Chapter 1):

1. Section 132.13(a)(1), Customs Regulations (19 CFR 132.13(a)(1)), to clarify the procedure relating to quota merchandise when the quota is nearing fulfillment;

2. Sections 141.61(e)(1)(i) and (f)(2), Customs Regulations (19 CFR 141.61(e)(1)(i), (f)(2)), to remove a mandatory requirement to aggregate statistical information from multiple invoices;

3. Section 142.21(f), Customs Regulations (19 CFR 142.21(f)), to clarify the circumstances under which a district director may authorize release of merchandise from warehouse under a special permit; and

4. Section 142.22(b), Customs Regulations (19 CFR 142.22(b)), to clarify what documentation may be filed after merchandise is released under the immediate delivery procedure.

DISCUSSION OF CHANGES AS PROPOSED

Section 132.13(a)(1)

As amended by T.D. 79-221, the first sentence of section 132.13(a)(1)(ii) provided that "Except in emergency cases, as provided for in section 142.21(e)(2) of this chapter, absolute quota merchandise shall not be released under this immediate delivery procedure if the quota is nearing fulfillment." To correct an inconsistency in the regulations, this sentence subsequently was amended by T.D. 80-26, published in the Federal Register on January 21, 1980 (45 FR 3901), to provide that "Absolute quota merchandise shall not be released under the immediate delivery procedure if the quota is nearing fulfillment."

A question of interpretation was raised as to whether absolute quota merchandise could be released under the immediate delivery

procedure if the quota were not nearing fulfillment. To clarify the point, the NPRM proposed to amend section 132.13(a)(1)(ii) to provide that except as provided for in section 142.21(e)(2) (relating to perishable merchandise of a class approved by Headquarters subject to an absolute quota) and section 142.21(g) (relating to release of merchandise when authorized by Headquarters), absolute quota merchandise shall not be released under the immediate delivery procedure.

Section 132.12, Customs Regulations, relating to the opening of potentially filled quotas, provides a procedure in paragraph (c)(2) to be used in the event quantities specified on entry summaries for consumption or withdrawals for consumption shall be prorated against the quota quantity.

The NPRM further proposed to amend section 132.13(a)(1) by deleting the last sentence of section 132.13(a)(1)(ii) and by adding a new section 132.13(a)(1)(iii) to provide that the procedure set forth under section 132.13(c)(2), relating to the opening of potentially filled quotas, also applies to tariff and absolute quota when the quota is nearing fulfillment.

Section 141.61(e)(1)(i) and (f)(2)

Section 141.61(e)(1)(i), as amended by T.D. 79-221, provided that if a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the information shall be combined and reported under one statistical reporting number. That section also provided that when consolidating information from several invoices under one reporting number, a worksheet itemizing the entered value of the merchandise from each invoice shall be attached to the appropriate form.

Section 141.61(f)(2), as amended by T.D. 79-221, relating to values on multiple invoices, required that the aggregate of the entered values of all the merchandise on each of the multiple invoices be shown on an attached worksheet.

The procedures relating to aggregating statistical information were proposed initially to reduce the loss of statistical data because detailed information on line items of the Tariff Schedules of United States Annotated (TSUSA) valued under \$250 was not reported. By combining data under one TSUSA number, many line items valued under \$250 could be included in the detailed data. Additionally, many TSUSA line items on Customs entry summaries could be eliminated, thus realizing significant savings in computer processing time.

The effective date of implementing these sections was September 10, 1979. However, after publication of T.D. 79-221 on August 9, 1979, a number of individual customhouse brokers, their trade association, and other interested parties advised Customs of serious problems and burdens they were experiencing in attempting to establish procedures to comply with the new regulations.

After reviewing the matter, Customs found there was merit to these complaints. Accordingly, a notice was published in the Federal Register as T.D. 79-248 on September 24, 1979 (44 FR 55001), delaying implementation of sections 141.61(e)(1)(i) and (f)(2), to January 1, 1980. Subsequently, on October 26, 1979, Customs field personnel were directed by Customs Headquarters to advise importers, brokers, and other interested parties that there would be an indefinite delay in implementing these sections.

Customs determined that the problems and financial burden that the new requirements would impose on certain segments of the importing public outweighed the benefits to be gained in reducing processing costs and time, and providing more complete statistical data.

On the other hand, some importers and nonautomated brokers preferred to aggregate the TSUSA number. A practice has been established in many locations to permit entry summaries to be filed in this manner.

Therefore, Customs determined to permit importers and brokers, at their option, to either:

1. Aggregate the TSUSA number regardless of the number of invoices involved; or
2. List the TSUSA number within each invoice.

The NPRM proposed to amend sections 141.61(e)(1)(i) and (f)(2) to provide that the broker and importer may use either procedure.

Section 142.21(f)

Section 142.21(f), as amended by T.D. 79-221, provided that at the discretion of the district director, merchandise may be released from a warehouse under a special permit provided the importer has on file one of the types of Customs bonds provided for in section 142.4, Customs Regulations (19 CFR 142.4).

The purpose of this provision is to avoid unnecessary delay in releasing merchandise from a bonded warehouse when an importer must travel a great distance from (1) the bonded warehouse to the customhouse to file the withdrawal for consumption with estimated duties attached, and (2) the customhouse to the bonded warehouse to obtain release of the merchandise.

Under section 142.21(f), an importer may obtain prompt release of merchandise from a bonded warehouse by filing Customs Form 3461. The importer may accumulate several of these forms over a period of days and then make one trip to the customhouse within the required 10-day period to file the withdrawal for consumption with estimated duties attached.

However, it appears that some importers, who do not travel great distances between their bonded warehouses and the customhouse and, therefore, can obtain prompt release of merchandise from the warehouse, may take advantage of the benefit of section 142.21(f) merely to forestall the payment of estimated duties until 10 days after release of the merchandise from the bonded warehouse.

The NPRM proposed to amend section 142.21(f) to ensure that the procedure will not be used by some importers merely to delay payment of estimated duties. It was proposed to amend section 142.21(f) to provide that the district director may authorize release from warehouse under a special permit under the following circumstances:

1. The warehouse is located a considerable distance from the customhouse and actual release of the merchandise from the warehouse could not be effected within the next full business day after the day of the payment of duty, and
2. The district has sufficient manpower to permit such practice.

Section 142.22(b)

Section 142.21, as amended by T.D. 79-221, provides that merchandise may be released under a special permit for immediate delivery, in accordance with section 448(b), Tariff Act of 1930, as amended (19 U.S.C. 1448(b)), under circumstances relating to the following:

1. Contiguous countries,
2. Fresh fruits and vegetables,
3. Agency of the U.S. Government,
4. Articles of a trade fair,
5. Quota-class merchandise,
6. Release from warehouse followed by warehouse withdrawal for consumption, and
7. When authorized by Headquarters.

Section 142.22(b) lists the documentation which must be filed after the release of merchandise for which a special permit for immediate delivery had been issued. They are:

1. An entry summary for consumption, with estimated duties attached, and entry summary for warehouse, or an entry summary for entry under a temporary bond;
2. A withdrawal for consumption, with estimated duties attached;

3. An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation; or
4. An application to destroy.

Section 142.28, Customs Regulations (19 CFR 142.28), provides, in part, that an entry for exportation, or for transportation and exportation, or an application to destroy, may be filed for merchandise released under a special permit for immediate delivery and later found to be prohibited.

A question of interpretation was raised by Customs personnel as to under what circumstances, relating to the release of merchandise under the immediate delivery procedure of section 142.21, would the transportation entries specified in section 142.22(b)(3) be used. Transportation entries may be used only with respect to the release of fresh fruits and vegetables under section 142.21(b) and absolute quota merchandise under section 142.21(e)(2). However, section 142.22(b)(3) did not set forth these two circumstances under which the transportation entries may be used. Therefore, an ambiguity was raised concerning the proper document to be used.

In a related matter, section 142.28 provides for the use of an entry for exportation, or for transportation and exportation, or an application to destroy merchandise released and later found to be prohibited. However, neither section 142.22(b)(3) nor section 142.22(b)(4) made any reference to merchandise released under the immediate delivery procedure and later found to be prohibited. An ambiguity also was raised with regard to the proper documents to be used.

The NPRM proposed to amend section 142.22(b)(3) to provide that the transportation entries shall be filed only in the circumstances under sections 142.21 (b) and (e)(2), and to provide that an entry for exportation, or for transportation and exportation, shall be filed in the circumstance under section 142.28.

Similarly, that document proposed to amend section 142.22(b)(4) to provide that an application to destroy shall be filed in the circumstances under section 142.21 (b) and (e)(2), and section 142.28.

Two additional changes to section 142.22(b) were proposed. It was proposed to amend section 142.22(b)(1) to clarify that the entry summary documents may be filed in any of the circumstances listed in section 142.21 except for merchandise released from warehouse under section 142.21(f). It was proposed to amend section 142.22(b)(2) to clarify that a withdrawal for consumption shall be filed only for merchandise released from warehouse under section 142.21(f).

Pursuant to the NPRM, interested parties were given until March 2, 1981, to submit comments on the proposal. Five commenters responded to the notice. Except for one clarifying change, the amendments are being adopted as proposed.

DISCUSSION OF COMMENTS

One commenter requests Customs to clarify and simplify its procedures to relieve congestion of air carrier terminals at various international airports. Because this suggestion is outside the scope of the proposed rule, Customs will not consider the comment as part of this document. However, as part of our continuing effort to improve operations, Customs will endeavor to clarify and simplify procedures wherever possible.

Several commenters object to amending section 132.13(a)(1)(ii), relating to quota merchandise. One commenter believes that prohibiting the release of absolute quota merchandise under the immediate delivery procedure if the quota were not nearing fulfillment would create an obstacle to the importing community. It is claimed that pier and rail demurrage costs would result because quota entries could not be processed by Customs timely. Another commenter believes that the regulations should allow all absolute quota merchandise to be released under normal entry procedures.

As noted in the proposal, this is not a new concept but merely a clarification of the existing procedure for regulating the release of absolute quota merchandise under the immediate delivery procedure, whether or not a quota is nearing fulfillment. The purpose of the rule is to assure that section 132.13(a)(1)(ii) is read consistently with section 142.21, relating to the immediate delivery procedure. The uniform procedure of restricting release of absolute quota merchandise under the immediate delivery procedure is necessary for Customs to maintain quantitative control of the merchandise. Accordingly, the rule is being adopted as proposed.

Concerning the proposed amendments to sections 141.61 (e)(1)(i) and (f)(2), relating to statistical information, one commenter indicates that there are many cases when merchandise having the same statistical reporting number is reported separately. The commenter suggests that the regulations provide that an importer, at his option or when required because of licensing or requirements of other government agencies, may report the same statistical reporting number as often as necessary.

Customs is not aware of requirements that merchandise subject to the same statistical reporting number must be reported separately on the Customs entry summary document. We believe that adoption of the suggestion would result in an increase in the number of tariff line items that must be processed. This would necessarily increase the statistical data processing costs. Customs does not favor allowing merchandise on one invoice subject to the same 7-digit TSUSA

reporting number to be entered on the entry summary more than once. Accordingly, the amendment is being adopted as proposed. An importer, at his option, may enter the same 7-digit number once for each invoice, or combine and report the same number once on the entry summary for all the merchandise subject to classification under that number from all invoices.

Several commenters object to the proposed amendment to section 142.21(f), relating to the release of merchandise from warehouse under a special permit. One commenter states that the phrase "considerable distance from the customhouse" in proposed section 142.21(f)(1)(i) is too broad and would be subject to misinterpretation. The commenter suggests that the phrase "outside of the official limitations of the city in which the Customs House is located" be used. Customs disagrees with the suggestion because if adopted, it would tend to work to the disadvantage of an importer having a warehouse in a city encompassing large geographical boundaries. Customs believes the proposed language is satisfactory.

Two commenters object to the language of that portion of proposed section 142.21(f)(1)(i) relating to the time of actual release of the merchandise from the warehouse. One commenter claims that it is unlikely that actual release of the merchandise from the warehouse "could" be completed within the next full business day because there is no present procedure under which Customs notifies the importer that the forms are available for pickup at the customhouse. Furthermore, if mail service were used, notice would not reach the importer for several days. The commenter notes that the only way in which an importer could ascertain the status of the forms submitted for withdrawal of the merchandise would be to travel each day to the customhouse. Economically, this would be very expensive. The second commenter notes that depending upon the reliability of the mail and availability of private transportation, release could be made within a span of one to three days.

Customs believes these concerns have merit and seeks to minimize any economic hardships upon the importer and avoid delay in processing paperwork. To clarify this matter, the word "may" is being substituted for the word "could" in proposed section 142.21(f)(1)(i).

Two commenters made suggestions to facilitate the release of merchandise from warehouse including using the procedure similar to the entry procedure currently in effect. Because these suggestions appear to be beyond the scope of the proposed rule they will not be considered as part of this document. However, Customs will consider these comments as part of its review of warehouse operation.

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of Title 5, United States Code (as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act") because it was the subject of a notice of proposed rulemaking issued before January 1, 1981, the effective date of the Act.

E.O. 12291

This document does not meet the criteria for a "major rule" as specified in section 1(b) of E.O. 12291. Accordingly, no regulatory impact analysis has been prepared.

DRAFTING INFORMATION

The principal author of this document was Charles D. Ressin, Regulations Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other Customs offices participated in its development.

AMENDMENT TO THE REGULATIONS

Parts 132, 141, and 142, Customs Regulations (19 CFR 132, 141, and 142), are amended as set forth below.

WILLIAM T. ARCHEY,
Acting Commissioner of Customs.

Approved: September 2, 1981.

JOHN P. SIMPSON,
Acting Assistant Secretary of Treasury.

[Published in the Federal Register, Oct. 8, 1981 (46 FR 49838)]

PART 132—QUOTAS

1. The first sentence of § 132.13(a)(1)(ii) is revised to read as follows:
§ 132.13 *Quotas after opening.*

(a) *Procedure when nearing fulfillment.*—(1) *For release of merchandise.*

* * * * *

(ii) *Absolute.* Except as provided for in § 142.21 (e)(2) and (g) of this chapter, absolute quota merchandise shall not be released under the immediate delivery procedure.

2. The last sentence of § 132.13(a)(1)(ii) is removed.

3. A new § 132.13(a)(1)(iii) is added to read as follows:

§ 132.13 *Quotas after opening.*

(a) *Procedure when nearing fulfillment.*—(1) *For release of merchandise.* * * *

(iii) *Quota Proration.* When it is determined that entry summaries for consumption or withdrawals for consumption must be amended to permit only the quantity of tariff-rate and absolute quota merchandise determined to be within the quota, the entry summaries for consumption or withdrawals for consumption must be returned to the importer for adjustment. The time of presentation for quota purposes in that event shall be the same as the time of the initial presentation of the entry summaries for consumption or withdrawals for consumption provided—

(A) An adjusted entry summary for consumption, or withdrawals for consumption, with estimated duties attached, is deposited within 5 working days after Headquarters authorizes release of the merchandise, and

(B) The importer takes delivery of the merchandise within 15 working days after release is authorized.

* * * * *

PART 141—ENTRY OF MERCHANDISE

1. § 141.61(e)(1)(i) is revised to read as follows:

§ 141.61 *Completion of entry and entry summary documentation.*

* * * * *

(e) *Statistical information*—(1) *Information required on entry summary or withdrawal form*—(i) *Where form provides space*—(A) *Single invoice.* For each class or kind of merchandise subject to a separate statistical reporting number, the applicable information required by the General Statistical Headnotes, Tariff Schedules of the United States Annotated ("TSUSA"), shall be shown on the appraisal entry, Customs Form 7500; the entry summary, Customs Form 7501 or 7502; the transportation entry and manifest of goods, Customs Form 7512, when used to document an incoming vessel shipment proceeding to a third country by means of an entry for transportation and exportation, or immediate exportation; the re-warehouse entry, Customs Form 7519; the manufacturing warehouse entry, Customs Form 7521; the withdrawal form, Customs Form 7505 or 7506; or the record of vessel/aircraft foreign repair or equipment purchase, Customs Form 226, in the space provided.

(B) *Multiple invoices.* If a class or kind of merchandise from the same country of origin subject to the same statistical reporting number is included in more than one invoice, the importer may, at his option (1) list each invoice separately on the appropriate form listed under paragraph (e)(1)(i)(A) of this section and for each class or kind of merchandise within each invoice subject to a separate statistical reporting number, report the applicable information required by the

General Statistical Headnotes, Tariff Schedules of the United States Annotated (TSUSA); or (2) combine the information for each class or kind of merchandise and report it under one statistical reporting number for all invoices. When consolidating information from several invoices under one reporting number, a worksheet itemizing the entered value of the merchandise from each invoice in the manner prescribed in paragraph (f)(2)(ii) of this section shall be attached to the appropriate form.

* * * * *

§ 141.61 [Amended]

2. § 141.61(f)(2); is revised to read as follows:

* * * * *

(f) *Value of each invoice.* (1) * * *

(2) *Multiple invoices.* (i) If the importer or his agent elects the first option specified in paragraph (e)(1)(i)(B) of this section, the information required to be restated by paragraph (f)(1) of this section for a single invoice shall be restated for each invoice. The required information shall be shown on a worksheet attached to the form or placed across columns (2a) or (2b) on Customs Form 7501 and 7502, and in the same general location on Customs Forms 7505, 7506, 7519, and 7521.

(ii) If the importer or his agent elects the second option specified in paragraph (e)(1)(i)(B) of this section, the information required to be restated by paragraph (f)(1) of this section for a single invoice shall be restated for each invoice. The final amount in the summary computation shall represent the aggregate of the entered values of all the merchandise on each of the multiple invoices. The required information shall be shown on an attached worksheet.

(iii) The worksheet also shall contain:

(A) A statistical reporting number restatement for the merchandise from each invoice subject to the same statistical reporting number from the same country of origin, and

(B) An aggregate total value which represents the entered value.

(iv) To permit the identification of the merchandise entered under each reporting number, each class or kind of merchandise from one country reported under a single statistical reporting number shall be coded identically on each invoice and on the worksheet.

PART 142—ENTRY PROCESS

1. § 142.21(f) is revised to read as follows:

§ 142.21 *Merchandise eligible for special permit for immediate delivery.*

* * * * *

(f) *Release from warehouse followed by warehouse withdrawal for consumption.* Merchandise may be released from warehouse under a special permit—

(1) At the discretion of the district director when

(i) The warehouse is located a considerable distance from the customhouse and actual release of the merchandise from the warehouse may not be effected within the next full business day after the day of the payment of duty, and (ii) The district has sufficient manpower to permit such practice;

(2) The importer shall have on file one of the types of Customs bonds provided for in § 142.4; and

(3) The immediate delivery permit shall be annotated to state that a warehouse withdrawal for consumption will be filed for this merchandise.

* * * * *

2. § 142.22(b) is revised to read as follows:

§ 142.22 *Application for special permit for immediate delivery.*

(a) * * *

(b) *Customs custody.* Merchandise for which a special permit for immediate delivery has been issued under § 142.21 shall be considered to remain in Customs custody until the filing of one of the following:

(1) An entry summary for consumption, with estimated duties attached, an entry summary for warehouse, or an entry summary for entry under a temporary importation bond, which may be filed in any of the circumstances under § 142.21 except for merchandise released from warehouse under § 142.21(f);

(2) A withdrawal for consumption, with estimated duties attached, which shall be filed only for merchandise released from warehouse under § 142.21(f);

(3) An entry for transportation and exportation, immediate transportation without appraisement, or direct exportation, which shall be filed in those circumstances under § 142.21(b) and (e)(2); or entry for transportation and exportation, or direct exportation, which shall be filed in the circumstances under § 142.28 or

(4) An application to destroy, which shall be filed in those circumstances under §§ 142.21(b) and (e)(2), and § 142.28.

(R.S. 251, as amended (19 U.S.C. 66), sec. 484, 552, 553, 557, 624, 46 Stat. 722, as amended, 742, as amended, 744, as amended, 759, (19 U.S.C. 1484, 1552, 1553, 1557, 1624); 92 Stat. 888)

(19 CFR Part 4)

(T.D. 81-261)

Special Tonnage Tax and Light Money

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Final rule.

SUMMARY: This rule amends the Customs Regulations by adding Dominica to the list of nations whose vessels are exempted from the payment of higher tonnage duties than are applicable to vessels of the United States and from the payment of light money. Satisfactory evidence has been furnished by the Department of State that no discriminating duties of tonnage or impost are imposed in ports of Dominica upon vessels belonging to citizens of the United States or on their cargoes. This document provides reciprocal privileges to vessels registered in Dominica.

EFFECTIVE DATE: June 15, 1981.

FOR FURTHER INFORMATION CONTACT: Michael Tomenga, carriers, Drawback and Bonds Division, U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229 (202-566-5706).

SUPPLEMENTARY INFORMATION:

BACKGROUND

Generally, the United States imposes regular and special tonnage taxes, and a duty of a specified amount per ton, known as "light money," on all foreign vessels which enter United States ports (46 U.S.C. 121, 128). However, vessels of a foreign nation may be exempted from the payment of special tonnage taxes and light money upon presentation of proof satisfactory to the President that no discriminatory duties of tonnage or imposts are imposed by that foreign nation on United States vessels or their cargoes (46 U.S.C. 141). The President has delegated the authority to grant this exemption to the Secretary of the Treasury. Section 4.22, Customs Regulations (19 CFR 4.22), lists those nations whose vessels have been exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money.

On June 15, 1981, the Department of State advised the Department of the Treasury that satisfactory evidence had been obtained from the Government of Dominica that no discriminating duties of tonnage or impost are imposed or levied in ports of that country upon vessels wholly belonging to citizens of the United States, or upon the produce,

manufactures, or merchandise imported into that country on United States vessels.

In its communication, the Department of State advised that no discriminating duties of tonnage or impost were imposed or levied upon vessels wholly belonging to citizens of the United States, or upon the produce, manufactures, or merchandise imported into ports of the Dominica from June 15, 1981.

DECLARATION

Therefore, by virtue of the authority vested in the President by section 4228 of the Revised Statutes, as amended (46 U.S.C. 141), and delegated to the Secretary of the Treasury by Executive Order No. 10289, September 17, 1951, as amended by Executive Order No. 10882, July 18, 1960 (3 CFR, 1959-1963 Comp., Ch. II), and pursuant to the authorization provided by Treasury Department Order No. 101-5 (46 FR 9336), I declare that the Foreign discriminating duties of tonnage and impost within the United States are suspended and discontinued, in respect to vessels of Dominica and the produce, manufactures, or merchandise imported into the United States in such vessels from Dominica or from any other foreign country.

This suspension and discontinuance shall take effect from June 15, 1981, in respect to vessels of Dominica, and shall continue only for so long as the reciprocal exemptions of vessels wholly belonging to citizens of the United States and their cargoes shall be continued.

AMENDMENT TO THE REGULATIONS

To reflect the reciprocal privileges granted to vessels registered in Dominica, the list in section 4.22, Customs Regulations (19 CFR 4.22), of nations whose vessels are exempted from the payment of any higher tonnage duties than are applicable to vessels of the United States and from the payment of light money, is amended by adding Dominica in appropriate alphabetical order.

(R.S. 251, as amended, 4219, as amended, 4255, as amended, 4228, as amended, sec. 3, 23 Stat. 119, as amended, sec. 624, 46 Stat. 759 (19 U.S.C. 66, 1624, 46 U.S.C. 5, 121, 128, 141))

INAPPLICABILITY OF PUBLIC NOTICE AND DELAYED EFFECTIVE DATE REQUIREMENTS

Because this amendment merely implements a statutory requirement and involves a matter in which the public is not particularly interested, pursuant to 5 U.S.C. 553(b)(B), notice and public procedure thereon are unnecessary. Further, for the same reasons,

good cause exists for dispensing with a delayed effective date under 5 U.S.C. 553(d)(1).

INAPPLICABILITY OF REGULATORY FLEXIBILITY ACT

This document is not subject to the provisions of sections 603 and 604 of title 5, United States Code, as added by section 3 of Pub. L. 96-354, the "Regulatory Flexibility Act." That Act does not apply to any regulation such as this for which a notice of proposed rule-making is not required by the Administrative Procedure Act (5 U.S.C. 551 *et seq.*) or any other statute.

EXECUTIVE ORDER 12291

This amendment does not meet the criteria for a major regulation as defined in section 1(b) of E.O. 12291. Accordingly, a regulatory impact analysis is not required.

DRAFTING INFORMATION

The principal author of this document was Barbara E. Whiting, Regulations Control Branch, Office of Regulations and Rulings, U.S. Customs Service. However, personnel from other offices of the Customs Service and the Departments of State and Treasury participated in its development.

Dated: September 2, 1981.

JOHN P. SIMPSON,

Acting Assistant Secretary of the Treasury.

[Published in the Federal Register, October 8, 1981 (46 FR 49837)]

(T.D. 81-262)

Bonds

Approval and discontinuance of consolidated aircraft bonds (air carrier blanket bonds), Customs Form 7605

The following consolidated aircraft bonds have been approved or discontinued as shown below. The symbol "D" indicates that the bond previously outstanding has been discontinued on the month, day, and year represented by the figures which follow. "PB" refers to a previous bond, dated as represented by the figures in parentheses immediately following, which has been discontinued. If the previous bond was in the name of a different company or if the surety was different, the information is shown in a footnote at the end of the list.

Dated: October 1, 1981.

Name of principal and surety	Date term commences	Date of approval	Filed with district director / area director/amount
Saudi Arabian Airlines Corp., 747 Third Ave., 29th Floor, New York, NY; The Travelers Indemnity Co.	Aug. 6, 1981	Sept. 17, 1981	St. Louis, MO \$100,000

The foregoing principal has been designated as a carrier of bonded merchandise.

BON-3-01

GEORGE C. STEUART,
(For Marilyn G. Morrison, Director,
Carriers, Drawback and Bonds Division).

(T.D. 81-263)

Foreign Currencies—Daily Rates for Countries Not on Quarterly List

The Federal Reserve Bank of New York, pursuant to section 522(c), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), has certified buying rates for the dates and foreign currencies shown below. The rates of exchange, based on these buying rates, are published for the information and use of Customs officers and others concerned pursuant to Part 159, Subpart C, Customs Regulations (19 CFR 159, Subpart C).

Argentina peso:

September 21-24, 1981..... \$0. 000178
September 25, 1981..... . 000175

Chile peso:

September 21-25, 1981..... \$0. 025575

Colombia peso:

September 21-24, 1981..... \$0. 017889
September 25, 1981..... . 017762

Greece drachma:

September 21, 1981..... \$0. 018182
September 22, 1981..... . 017825
September 23, 1981..... . 017746
September 24, 1981..... . 017422
September 25, 1981..... : 017575

Indonesia rupiah:

September 21-25, 1981..... \$0. 001582

Israel shekel:

September 21, 1981.....	\$0. 075873
September 22-23, 1981.....	. 075930
September 24, 1981.....	. 075131
September 25, 1981.....	. 074850

Peru sol:

September 21-25, 1981.....	\$0. 002257
September 25, 1981.....	. 002212

(LIQ-01-03 O:C:E)

Dated: September 24, 1981.

KENNETH A. RICH,
Acting Chief,
Customs Information Exchange.

(T.D. 81-264)

Foreign Currencies—Variances From Quarterly Rate

The following rates of exchange are based upon rates certified to the Secretary of the Treasury by the Federal Reserve Bank of New York, pursuant to Section 522(C), Tariff Act of 1930, as amended (31 U.S.C. 372(c)), and reflect variances of 5 per centum or more from the quarterly rate published in Treasury Decision 81-183 for the following countries. Therefore, as to entries covering merchandise exported on the dates listed, whenever it is necessary for Customs purposes to convert such currency into currency of the United States, conversion shall be at the following rates.

Austria schilling:

September 21, 1981.....	\$0. 063492
September 22, 1981.....	. 062500
September 23, 1981.....	. 062228
September 24-25, 1981.....	Quarterly

Belgium franc:

September 21, 1981.....	\$0. 027420
September 22, 1981.....	. 026903
September 23, 1981.....	. 026681
September 24-25, 1981.....	Quarterly

Brazil cruziero:

September 21-25, 1981.....	\$0. 009388
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Denmark krone:

September 21, 1981.....	\$0. 141945
September 22, 1981.....	. 139567
September 23, 1981.....	. 138793
September 24-25, 1981.....	Quarterly

France franc:

September 21, 1981.....	\$0. 189107
September 22, 1981.....	. 184672
September 23-25, 1981.....	Quarterly

Germany deuches mark:

September 21, 1981.....	\$0. 448430
September 22, 1981.....	. 438212
September 23-25, 1981.....	Quarterly

Hong Kong dollar:

September 21, 1981.....	\$0. 166528
September 22, 1981.....	. 164948
September 22, 1981.....	. 163586
September 24, 1981.....	. 162602
September 25, 1981.....	. 163800

India rupee:

September 21-22, 1981.....	\$0. 109769
September 23, 1981.....	. 109529
September 24, 1981.....	. 108225
September 25, 1981.....	. 108460

Ireland pound:

September 21, 1981.....	\$1. 6320
September 21, 1981.....	1. 6000
September 23-25, 1981.....	Quarterly

Italy lira:

September 22, 1981.....	\$0. 000882
September 23-25, 1981.....	Quarterly

Netherlands guilder:

September 21, 1981.....	\$0. 404204
September 22, 1981.....	. 394945
September 23-25, 1981.....	Quarterly

Republic of South Africa rand:

September 21-23, 1981.....	Quarterly
September 24, 1981.....	\$1. 0530
September 25, 1981.....	\$1. 0545

Sri Lanka rupee:

September 21-24, 1981.....	\$0. 049092
September 25, 1981.....	. 048792

Sweden krone:

September 21, 1981.....	\$0. 183993
September 22, 1981.....	. 181719
September 23, 1981.....	. 180343
September 24-25, 1981.....	. 179051

Switzerland franc:

September 21, 1981.....	\$0. 524384
September 22, 1981.....	. 510204
September 23, 1981.....	. 509165
September 24, 1981.....	. 506329
September 25, 1981.....	Quarterly

Thailand baht (tical):

September 21-25, 1981.....	\$0. 043384
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United Kingdom pound:

September 21-23, 1981.....	Quarterly
September 24, 1981.....	\$1. 7885
September 25, 1981.....	1. 7855

LIQ-03-01 O:C:E

Dated: September 24, 1981.

KENNETH A. RICH,
Acting Chief,
Customs Information Exchange.

U.S. Customs Service

General Notice

(19 CFR Parts 24, 111, 141)

Proposed Customs Regulations Amendments Relating to Discharge of an Importer's Liability for Duties; Extension of Time for Public Comment

AGENCY: U.S. Customs Service, Department of the Treasury.

ACTION: Notice of extension of time for comments.

SUMMARY: This notice extends the period of time within which interested members of the public may submit comments with respect to a proposal to amend Parts 24, 111, and 141, Customs Regulations (19 CFR Parts 24, 111, 141), relating to the discharge of an importer's liability for duties. A document inviting the public to comment on this proposal was published in the Federal Register on September 3, 1981 (46 FR 44195). Comments were to have been received on or before November 2, 1981. A request has been received to extend the period of time for the submission of comments. The notice extends the period of time to December 2, 1981.

DATE: Comments must be received on or before December 2, 1981.

ADDRESS: Written comments (preferably in triplicate) may be addressed to the Commissioner of Customs, Attention: Regulations Control Branch, U.S. Customs Service, 1301 Constitution Avenue, NW., Room 2426, Washington, D.C. 20229.

FOR FURTHER INFORMATION CONTACT: Edward B. Gable, Jr., Office of Regulations and Rulings (202-566-5706), U.S. Customs Service, 1301 Constitution Avenue, NW., Washington, D.C. 20229.

Dated: October 6, 1981.

DONALD W. LEWIS,
Director, Office of Regulations and Rulings.

[Published in the Federal Register, October 13, 1981 (46 FR 50393)]

United States Court of International Trade

One Federal Plaza
New York, N.Y. 10007
Chief Judge

Edward D. Re

Judges

Paul R. Rao
Morgan Ford
Scovel Richardson
Frederick Landis

James L. Watson
Herbert N. Maletz
Bernard Newman
Nils A. Boe

Senior Judge

Samuel M. Rosenstein

Clerk

Joseph E. Lombardi

Decisions of the United States Court of International Trade

(Slip Op. 81-84)

EISEMAN-LUDMAR CO., INC., PLAINTIFF *v.* THE UNITED STATES,
DEFENDANT

Court No. 76-1-00117

Before BOE, *Judge*.

MEMORANDUM OPINION AND ORDER

[Order denying motion for rehearing.]

(Dated September 21, 1981)

Fitch, King & Caffentzis (Richard C. King on the brief) for the plaintiff.
Stuart E. Schiffer, Acting Assistant Attorney General; *Joseph I. Liebman*,
Attorney in Charge, International Trade Field Office, Commercial Litigation
Branch (*Robert H. White* on the brief), for the defendant.

BOE, *Judge*: With respect to the decision and judgment of this court in the above-entitled action entered on July 28, 1981, the plaintiff seeks, pursuant to rule 59 of this court, a rehearing " * * * and a reconsideration of the evidence and applicable principles of the law to be applied to the evidence."

In the case of *W. J. Byrnes & Co., Inc. v. United States*, 68 Cust. Ct. 358, C.R.D. 72-5 (1972), the United States Customs Court through Judge Watson has succinctly stated:

A rehearing may be proper when there has been some error or irregularity in the trial, a serious evidentiary flaw, a discovery of important new evidence which was not available, even to the diligent party, at the time of trial, or an occurrence at trial in the nature of an accident or unpredictable surprise or unavoidable mistake which severely impaired a party's ability to adequately present its case. In short, a rehearing is a method of rectifying a significant flaw in the conduct of the original proceeding.

The grounds upon which the plaintiff predicates its motion, indeed, possess none of the criteria upon which rehearings have been granted in suits in equity in the courts of the United States. In sum, the plaintiff, advancing the same arguments as presented to this court in its memorandum brief in the trial of the instant action, presently seeks to have this court in reconsidering its decision and judgment herein construe the evidence and testimony presented at the trial of the within action in the identical manner as interpreted by the plaintiff. An allegedly incorrect evaluation of evidence by a trial court is not a proper ground for rehearing but for appeal.

Plaintiff's alternative request contained in its motion that the instant action be reopened " * * * for the taking of additional testimony to confirm plaintiff's above analysis of the evidence of record on the known uses of manchons * * *" only serves to confirm this court's opinion with respect to the inadequacy of plaintiff's evidence to sustain its dual burden of proof. Neither party hereto can be said to have been "precipitously rushed" into the trial arena. After four years following the joinder of issue in the instant action, after repeated directives by the court to proceed to trial and after numerous extensions of time granted to each party litigant, a request for the reopening of the instant action for the purpose of taking additional testimony in an attempt to confirm a litigant's interpretation of the evidence presented during the full prior trial thereof, indeed, does not serve to add luster to our judicial system.

The motion of the plaintiff, accordingly, be and is hereby denied.

Decisions of the United States Court of International Trade

Abstracts Abstracted Protest Decisions

DEPARTMENT OF THE TREASURY, September 28, 1981.

The following abstracts of decisions of the United States Court of International Trade at New York are published for the information and guidance of officers of the Customs and others concerned. Although the decisions are not of sufficient general interest to print in full, the summary herein given will be of assistance to Customs officials in easily locating cases and tracing important facts.

WILLIAM VON RAAB,
Commissioner of Customs.

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	ASSESSED	HIELD	BASIS	PORT OF ENTRY AND MERCHANDISE
181/156	Watson, J. September 21, 1981	F. W. Myers & Co., Inc.	78-7-01285	Par. or Item No. and Rate Item 409.00 3.54 per lb. +22.5%	Par. or Item No. and Rate Item 432.00 5%	F. W. Myers & Co., Inc. v. U.S. (C.D. 4876)	Port Huron Herbicide known as "Gen- cor 50% Wettable Powder"

P81/157	Maletz, J. September 21, 1931	Border Brokerage Co., Inc.	78-1-00558, etc.	Item 680.22 11%	Item 680.27 5%	Agreed statement of facts	Blaine (Seattle) Valves or devices used to control the flow of liquids
P81/154	Maletz, J. September 22, 1931	International Seaway Trading Corp.	67/79077, etc.	Item 700.60 29%	Item 700.70 15%, 13%, 12%, 10%, 9%, or 7.5%	International Seaway Trading Corp. v. U.S. (C.D. 4772)	Baltimore Footwear which have midsoles which contain iron powder fillers
P81/159	Newman, J. September 22, 1931	Stoner and Downar	80-1-00139	Item 608.32 10.5%, plus additional duties under items 607.01 and 607.02 on chromium and molybdenum content	Item 609.82 2% + 0.1¢ per lb., plus additional duties, <i>supra</i>	Overton & Co. v. U.S. (C.D. 4875)	Boston Hot rolled, sectional steel shapes, alloyed; not annealed, drilled, punched, nor otherwise advanced
P81/160	Newman, J. September 22, 1931	Weatherill Brothers Inc.	80-1-00138	Item 608.32 10.5%, plus additional duties under items 607.01 and 607.02 on chromium and molybdenum content	Item 609.82 2% + 0.1¢ per lb., plus additional duties, <i>supra</i>	Overton & Co. v. U.S. (C.D. 4875)	Boston Hot rolled, sectional steel shapes, alloyed; not annealed, drilled, punched, nor otherwise advanced

Decisions of the United States Court of International Trade

Abstracts

Abstracted Reappraisement Decisions

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R81/252	Re, C.J. September 21, 1981	Marco Polo Imports Ltd.	74-3-01533	Export value	Appraised values shown on entry papers less additions included to reflect currency revaluation.	C.H.S. Imports Corp. v. U.S. (C.D. 4739)	New York Miscellaneous articles
R81/253	Re, C.J. September 21, 1981	Pacific Import Corp.	74-1-01688, etc.	Export value	Appraised values speci- fied on entry papers by liquidating officer, less any additions in- cluded which reflect currency revaluation	C.H.S. Imports Corp. v. U.S. (C.D. 4739)	Los Angeles Miscellaneous articles

R81/254	Richardson, J. September 21, 1981	Concord Electronics Corp.	R68/680, etc.	Export value	Invoice unit value exclusive of buying commission and bank interest shown on invoices.	Concord Electronics Corp. v. U.S. (C.D. 4877)	Los Angeles Electronic equipment
R81/255	Maletz, J. September 21, 1981	Charmilles Corp. of America	79-10-01184	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value for entries covered by schedule A attached to decision and judgment, at fixed rate of exchange as shown on special customs invoice or, in absence of special customs invoice, at rate shown on commercial invoice in entry documents (the "claimed value"), and for entries covered by schedule B, at the rate of exchange in effect at time of entry (the "claimed value"), 58% of difference between claimed value and appraised value	Agreed statement of facts	New York Machine tools, accessories, and parts
I81/256	Maletz, J. September 21, 1981	Wants Co.	80-12-00187	Export value	Rs. 28,708	Agreed statement of facts	New York 1,000 pieces of pure silk "Kurtas" (ladies tops)

DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	HELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R31/257	Maletz, J. September 22, 1981	Charmilles Corp. of America	76-3-00625	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value, for entries covered by schedule A attached to decision and judgment, at fixed rate of exchange as shown on special customs invoice or, in absence of special customs invoice, at rate shown on commercial invoice in entry documents (the "claimed value"), and for entries covered by schedule B, at the rate of exchange in effect at time of entry (the "claimed value"), 53% of difference between claimed value and appraised value	Agreed statement of fact	New York Machine tools, accessories, and parts

R41/308	Maletz, J. September 22, 1981	Charmilles Corp. of America	76-8-01935	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value, for entries covered by schedule A attached to decision and judgment, at fixed rate of exchange as shown on special customs invoice or, in absence of special customs invoice, at rate shown on commercial invoice in entry documents (the "claimed value"), and for entries covered by schedule B, at the rate of exchange in effect at time of entry (the "claimed value"), 58% of difference between claimed value and appraised value	Agreed statement of facts	statement of	New York Machine tools, accessories, and parts
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DECISION NUMBER	JUDGE & DATE OF DECISION	PLAINTIFF	COURT NO.	BASIS OF VALUATION	FIELD VALUE	BASIS	PORT OF ENTRY AND MERCHANDISE
R81/259	Maleitz, J. September 22, 1981	Charmilles Corp. of America	78-5-0791, etc.	United States value	Determined by adding to L.o.b. unit invoice price in Swiss francs converted to a dollar value at fixed rate of exchange as shown on special customs invoice or, in absence of rate in special customs invoice, at rate shown on commercial invoice in entry documents (the "claimed value"), 53% of difference between claimed value and appraised value	Agreed statement of facts	New York Machine tools, accessories, and parts

R81/380	Maleiz, J. September 22, 1981	Charnilles Corp. of America	78-7-01289	United States value	Determined by adding to f.o.b. unit invoice price in Swiss francs converted to a dollar value at fixed rate of exchange as shown on special customs in- voice or, in absence of rate in special customs invoice, at rate shown on commercial invoice in entry docu- ments (the "claimed value") 53% of differ- ence between claimed value and appraised value	Agreed statement of facts	New York Machine tools, acces- sories, and parts
R81/381	Maleiz, J. September 22, 1981	Mitsubishi Interna- tional Corp.	R80/9041, etc.	Export value	Invoiced f.o.b. prices specified for each arti- cle	International Seaway Trading Corp. v. U.S. (C.D. 473) wherein merchandise was held Classifiable under item 700.70, TSUS	Miami Footwear which have midsoles which con- tain iron powder fillers
R81/382	Maleiz, J. September 22, 1981	Mitsubishi Interna- tional Corporation	75-1-00210, etc.	American selling price	Appraised values less 23% per pair	Agreed statement of facts	Los Angeles Footwear

ERRATUM

In CUSTOMS BULLETIN, Vol. 15, No. 35, dated September 2, 1981, Slip Op. 81-73, page 48 in the opinion and page 50 in the third paragraph the name "George J. McManus" appears it should read: "Gerald J. McManus"

International Trade Commission Notices

Investigations by the U.S. International Trade Commission

DEPARTMENT OF THE TREASURY, OCTOBER 8, 1981

The appended notices relating to investigations by the U.S. International Trade Commission are published for the information of Customs officers and others concerned.

WILLIAM VON RAAB,
Commissioner of Customs.

(19 CFR 207.40)

*Notice of Termination of Countervailing Duty Investigation Concerning
Steel Welded Wire Mesh From Italy*

AGENCY: United States International Trade Commission.

ACTION: Termination of countervailing duty investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with regard to steel welded wire mesh from Italy.

EFFECTIVE DATE: September 29, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Office of Investigations, telephone number (202) 523-0242.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such an industry would be materially retarded, if the order were to be revoked. On March 28, 1980, the Commission received a request from the Delegation of the Commission of the

European Communities for the review of the outstanding countervailing duty order on steel welded wire mesh from Italy (T.D. 68-149).

On July 22, 1981, the Commission was notified by letter that Hurricane Industries, Inc., the firm which now holds the assets of the original petitioner for the countervailing duty order, "does not wish to continue in this investigation and hereby withdraws the petition as it applies to our company."

While there is no provision in the Trade Agreements Act of 1979, or in its legislative history, permitting termination of a transition case investigation, termination of a properly instituted countervailing duty investigation is permitted under section 704(a) of the Tariff Act of 1930. That section directs the Commission to solicit public comment prior to termination and approve such termination only if it is in the public interest. Termination authority is explicit in cases based on newly filed countervailing duty petitions; it is implied with respect to existing countervailing duty orders.

On August 12, 1981, the Commission published a notice in the Federal Register (46 FR 40838) requesting public comment by September 11, 1981, on the proposed termination of the Commission investigation on steel welded wire mesh from Italy. No adverse comments were received in response to the Commission's notice.

The Commission is therefore terminating its investigation under section 104(b)(1) of the Trade Agreements Act of 1979 on steel welded wire mesh from Italy (T.D. 68-149). The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured or threatened with material injury by reason of imports from Italy of steel welded wire mesh covered by the countervailing duty order if the order were to be revoked.

In addition to publishing this Federal Register notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

By order of the Commission.

KENNETH R. MASON,
Secretary.

(19 CFR 207.40)

*Notice of Termination of Countervailing Duty Investigation Concerning
Certain Cap Screws From Italy*

AGENCY: United States International Trade Commission.

ACTION: Termination of countervailing duty investigation under section 104(b)(1) of the Trade Agreements Act of 1979, with regard to certain cap screws from Italy.

EFFECTIVE DATE: September 29, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Lynn Featherstone, Office of Investigations, telephone number (202) 523-0242.

SUPPLEMENTARY INFORMATION: The Trade Agreements Act of 1979, subsection 104(b)(1), requires the Commission in the case of a countervailing duty order issued under section 303 of the Tariff Act of 1930, upon the request of a government or group of exporters of merchandise covered by the order, to conduct an investigation to determine whether an industry in the United States would be materially injured, or threatened with material injury, or whether the establishment of such an industry would be materially retarded, if the order were to be revoked. On March 28, 1980, the Commission received a request from the Delegation of the Commission of the European Communities for the review of the outstanding countervailing duty order on certain cap screws from Italy (T.D. 76-225).

On July 23, 1981, the Commission was notified by letter that Russell, Burdsall, and Ward, Inc., the original petitioner for the countervailing duty order, wished to withdraw its petition on cap screws.

While there is no provision in the Trade Agreements Act of 1979, or in its legislative history, permitting termination of a transition case investigation, termination of a properly instituted countervailing duty investigation is permitted under section 704(a) of the Tariff Act of 1930. That section directs the Commission to solicit public comment prior to termination and approve such termination only if it is in the public interest. Termination authority is explicit in cases based on newly filed countervailing duty petitions; it is implied with respect to existing countervailing duty orders.

On August 12, 1981, the Commission published a notice in the Federal Register (46 FR 40838) requesting public comment by September 11, 1981, on the proposed termination of the Commission investigation on certain cap screws from Italy. No adverse comments were received in response to the Commission's notice.

The Commission is therefore terminating its investigation under section 104(b)(1) of the Trade Agreements Act of 1979 on certain cap screws from Italy (T.D. 76-225), which covers all such cap screws, one-quarter inch in diameter and over, of iron or steel. The termination of this investigation has the same effect as a determination that an industry in the United States would not be materially injured or threatened with material injury by reason of imports from Italy

of cap screws covered by the countervailing duty order if the order were to be revoked.

In addition to publishing this Federal Register notice, the Commission is serving a copy of this notice on all persons who have written the agency in connection with this investigation and is also notifying the Department of Commerce of its action in this case.

By order of the Commission.

Issued: October 1, 1981.

KENNETH R. MASON,
Secretary.

Sodium Gluconate From the European Economic Community¹

Investigation No. 701-TA-79 (Final)

AGENCY: United States International Trade Commission.

ACTION: Institution of a final countervailing duty investigation.

SUMMARY: As a result of receiving notice from the United States Department of Commerce on September 16, 1981, that there is reason to believe or suspect that the European Economic Community is providing subsidies upon the manufacture, production, and exportation of sodium gluconate imported into the United States within the meaning of section 703 of the Tariff Act of 1930 (19 U.S.C. 1671b), the United States International Trade Commission (hereinafter "the Commission") hereby gives notice of the institution of investigation No. 701-TA-79 (Final) to determine whether an industry in the United States is materially injured, or is threatened with material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports of such merchandise. For purposes of this investigation, the term "sodium gluconate" means the sodium salt of gluconic acid ($\text{Na}_6\text{CH}_{11}\text{O}_7$), provided for in item 437.52 of the Tariff Schedules of the United States. This investigation will be conducted according to the provisions of Part 207 of the Commission's *Rules of Practice and Procedure* (19 CFR 207, 44 FR 76457), Subpart C, effective January 1, 1980.

EFFECTIVE DATE: September 16, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Tim Timberlake, Staff Investigator, Office of Investigations, U.S. International Trade Commission, Room 348, 701 E Street, NW., Washington, D.C. 20436; telephone 202-523-4618.

¹ In its preliminary decision, the Commission entitled this case "Sodium Gluconate from the European Communities." Since the Department of Commerce has determined that the country in this case is the European Economic Community, the Commission has changed its title accordingly.

SUPPLEMENTARY INFORMATION: On July 27, 1981, the Commission unanimously determined, on the basis of the information developed during the course of investigation No. 701-TA-79 (Preliminary), that there is a reasonable indication that an industry in the United States is materially injured by reason of the importation of allegedly subsidized sodium gluconate from the European Communities. As a result of the Commission's determination, the Department of Commerce (the administering authority) continued its investigation into the question of the alleged subsidies, and has preliminarily estimated that the net subsidy on sodium gluconate exported to the United States from the European Economic Community to be \$107.05 per metric ton. The final determination by the Department of Commerce as to whether the European Economic Community is subsidizing its manufacturers, producers, or exporters of sodium gluconate will be made by November 23, 1981.

WRITTEN SUBMISSIONS: Any person may submit to the Commission a written statement of information pertinent to the subject of this investigation. A signed original and nineteen (19) true copies of each submission must be filed at the Office of the Secretary, U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, on or before December 21, 1981. All written submissions, except for confidential business data, will be available for public inspection.

Any submission of business information for which confidential treatment is desired shall be submitted separately from other documents. The envelope and all pages of such submissions must be clearly labeled "Confidential Business Information." Confidential submissions and requests for confidential treatment must conform with requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6).

PUBLIC HEARING: The Commission will hold a public hearing in connection with this investigation on December 15, 1981, in the Hearing Room of the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. 20436, beginning at 10:00 a.m., e.s.t. Requests to appear at the hearing should be filed in writing with the Secretary to the Commission not later than the close of business (5:15 p.m., e.s.t.), December 4, 1981. All persons desiring to appear at the hearing and make oral presentations must file prehearing statements and should attend a prehearing conference to be held at 2:00 p.m., e.s.t., on December 7, 1981, in Room 117 at the U.S. International Trade Commission Building. Prehearing statements must be filed on or before December 9, 1981. For further information concerning the conduct of the investigation, hearing procedures,

and rules of general applications, consult the Commission's *Rules of Practice and Procedure*, Part 207, Subpart C (19 CFR 207), and Part 201, Subparts A through E (19 CFR 201).

This notice is published pursuant to section 207.20 of the Commission's *Rules of Practice and Procedure* (19 CFR 207.20, 44 FR 76458).

By order of the Commission.

Issued: September 29, 1981.

KENNETH R. MASON,
Secretary.

In the Matter of CERTAIN THERMAL CONDUCTIVITY SENSING GEM TESTERS AND COMPONENTS THEREOF	}	Investigation No. 337-TA-100
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Notice of Prehearing Conference and Hearing

Notice is hereby given that a prehearing conference will be held in this case at 9:00 a.m. on November 2, 1981, in the Dodge Center, Room 201, 1010 Wisconsin Avenue, N.W., Washington, D.C., and the hearing will commence immediately thereafter.

The purpose of the prehearing conference is to review the trial memoranda submitted by the parties, to stipulate exhibits into the record, and to discuss any questions raised by the parties relating to the hearing.

The Secretary shall publish this notice in the Federal Register.

Issued: September 25, 1981.

JANET D. SAXON,
Administrative Law Judge.

In the Matter of CERTAIN STABILIZED HULL UNITS AND COMPONENTS THEREOF AND SONAR UNITS UTILIZING SAID STABILIZED HULL UNITS	}	Investigation No. 337-TA-103
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Notice to All Parties

At the request of the parties the procedural schedule is changed to the original dates set forth in Order No. 2, and the hearing will commence on December 1, 1981.

Issued: September 25, 1981.

JANET D. SAXON,
Administrative Law Judge.

In the Matter of CERTAIN MOLDED-IN SANDWICH PANEL INSERTS AND METHODS FOR THEIR INSTALLATION	}	Investigation No. 337-TA-99
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Order No. 16

For unanticipated but necessitous reasons of administrative management and judicial economy, Administrative Law Judge Donald K. Duvall is hereby relieved and Administrative Law Judge Janet D. Saxon is hereby designated as the Presiding Officer in this investigation, effective this date.

Such redesignation of the Presiding Officer will not affect the prehearing and hearing schedule previously ordered in this investigation and will afford the newly designated Presiding Officer adequate time to prepare for the hearing presently scheduled to commence following the prehearing conference on October 19, 1981.

The Secretary shall serve a copy of this order upon all parties of record and shall publish it in the Federal Register.

Issued: September 24, 1981.

DONALD K. DUVALL,
Chief Administrative Law Judge.

Investigation No. 701-TA-80 (Preliminary)

Lamb Meat From New Zealand

AGENCY: United States International Trade Commission.

ACTION: Institution of a preliminary countervailing duty investigation.

EFFECTIVE DATE: September 21, 1981.

SUMMARY: On September 21, 1981, the Commission was notified by the Department of Commerce that, in accordance with section 702 of the Tariff Act of 1930 (19 U.S.C. §1671a), it was commencing an investigation to determine whether the government of New Zealand offers its exporters, producers, and processors of lamb meat benefits that qualify as subsidies within the meaning of the Act. Accordingly, effective September 21, 1981, the Commission, pursuant to section 703(a) of the Act (19 U.S.C. §1671b(a)), instituted preliminary countervailing duty investigation No. 701-TA-80 (Preliminary) to determine whether there is a reasonable indication that an industry in the United States is materially injured, or is threatened with

material injury, or the establishment of an industry in the United States is materially retarded, by reason of imports from New Zealand of lamb meat, provided for in item 106.30 of the Tariff Schedules of the United States, upon which bounties or grants are alleged to be paid. The Commission must make its determination in the investigation within 45 days after the date on which the notice of investigation was received from the Department of Commerce, or by November 5, 1981 (19 CFR §207.17). The investigation will be subject to the provisions of part 207 of the Commission's Rules of Practice and Procedure (19 CFR §207, 44 F.R. 76457), and particularly subpart B thereof.

FOR FURTHER INFORMATION CONTACT: Patrick J. Magrath, Office of Investigations (202-523-0283).

SUPPLEMENTARY INFORMATION: *Background.* On April 23, 1981, a petition was filed with the Department of Commerce by counsel for the National Wool Growers Association, Inc., Salt Lake City, Utah, alleging that imports of lamb meat from New Zealand are being subsidized within the meaning of section 303 of the Tariff Act of 1930 (19 U.S.C. § 1303). The National Lamb Feeders Association, Inc., Menard, Texas, became a copetitioner on May 12, 1981. As New Zealand was not at that time a "country under the Agreement" within the meaning of section 701(b) of the Act (19 U.S.C. § 1671(b)), there was no requirement for the petition to be filed with the Commission pursuant to section 702(b)(2) and no requirement for the Commission to conduct a preliminary material injury investigation pursuant to section 703(a).

On September 17, 1981, however, the United States Trade Representative announced that New Zealand had become a "country under the Agreement" (46 FR 46263). Accordingly, Commerce terminated its investigation under section 303, initiated an investigation under section 702, and notified the Commission of its action.

Written submissions. Any person may submit to the Commission on or before October 23, 1981, a written statement of information pertinent to the subject matter of this investigation. A signed original and nineteen copies of such a statement must be submitted.

Any business information which a submitter desires the Commission to treat as confidential shall be submitted separately and each sheet must be clearly marked at the top "Confidential Business Data." Confidential submissions must conform with the requirements of section 201.6 of the Commission's Rules of Practice and Procedure (19 CFR § 201.6). All written submissions, except for confidential business data, will be available for public inspection.

Conference. The Director of Operations of the Commission has scheduled a conference in connection with this investigation for 10:00 a.m., e.d.t., on October 16, 1981, at the U.S. International Trade Commission Building, 701 E Street, NW., Washington, D.C. Parties wishing to participate in the conference should contact the supervisory investigator for this investigation, Mr. Lynn Feathertone (202-523-0242). It is anticipated that parties in support of the petition for countervailing duties and parties opposed to the petition will each be collectively allocated one hour within which to make an oral presentation at the conference. Further details concerning the conduct of the conference will be provided by the supervisory investigator.

Inspection of the petition. A copy of the petition filed with the Department of Commerce in this case is available for public inspection at the Office of the Secretary, U.S. International Trade Commission.

This notice is published pursuant to section 207.12 of the Commission's Rules of Practice and Procedure (19 CFR § 207.12).

By order of the Commission.

Issued: September 24, 1981.

KENNETH R. MASON,
Secretary.

In the Matter of CERTAIN SURFACE GRINDING MA- CHINES AND LITERATURE FOR THE PROMOTION THEREOF	}	Investigation No. 337-TA-95
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*Notice of Commission Request for Comments Regarding Proposed
Termination of Respondent Based on a Settlement Agreement*

AGENCY: U.S. International Trade Commission.

ACTION: A request for public comment on the proposed termination of respondent based on a settlement agreement.

SUMMARY: The settlement agreement would result in the termination of the investigation as to respondent Performance Machine Tools. This notice requests comments from the public on the proposed termination.

DATES: Comments will be considered if received within 30 days of the date of publication of this notice. Comments should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR § 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: Complainant Brown and Sharpe Manufacturing Company and respondent Performance Machine tools moved in a joint motion for termination of this investigation as to Performance on the basis of a settlement agreement. The Commission investigative attorney supports the motion. On August 17, 1981, the presiding officer recommended that the joint motion be granted.

Notice of the institution of the investigation was published in the Federal Register of January 22, 1981 (46 FR 7107).

SETTLEMENT AGREEMENT: The settlement agreement provides in pertinent part as follows:

Pending a determination by the U.S. International Trade Commission of the complaint filed in the Investigation, **RESPONDENT** shall refrain from importing, buying, selling, leasing, or otherwise transferring Surface Grinding Machines into the United States directly or indirectly from Taiwan or other countries, of the type and style which

(a) are reproductions, copies, colorable imitations, or simulations of B & S [Brown and Sharpe Manufacturing Company] High Precision Surface Grinding Machines that have been sold under the designations 510, 612, 618, 818, 824, 1024, 1030, 1244, and 1236, or

(b) are of the type offered for sale heretofore by Lian Feng Machine Co. of Taiwan, China, identified as Exhibit 14 attached to the B & S complaint in the investigation.

RESPONDENT shall refrain from copying, reprinting, using, selling, or distributing any unauthorized copies of manuals, catalogs, brochures, or other printed material prepared or owned by B & S and bearing a B & S copyright notice.

RESPONDENT shall refrain from printing, distributing, or authorizing the printing or distributing of any promotional material containing references to B & S or its trademarks, except in connection with the sale or servicing of B & S equipment.

RESPONDENT shall refrain from using any B & S manual, catalog, or other printed material, whether or not protected by copyright, in connection with the maintenance, repair, or sale of surface grinding machines or components thereof, other than B & S surface grinding machines or components thereof.

RESPONDENT shall refrain from importing, buying, selling, or otherwise transferring Surface Grinding Machines made in foreign countries which simulate the trade dress of B & S High Precision Surface Grinding Machines as exemplified by Exhibits 14, 15, and 16B of the Complaint filed in the Investigation.

RESPONDENT agrees to give to B & S two copies of all catalogs, manuals, advertisements, and promotional pieces promoting or making reference to surface grinding machines made by Lian Feng

Machine Co. that have been used, sold, or distributed by RESPONDENT.

RESPONDENT shall deliver to B & S prior to March 27, 1981 in affidavit form a statement relating to RESPONDENT's purchase and sale of surface grinding machines made or sold by Lian Feng Machine Co., including (a) the total number purchased; (b) the dates of purchase; (c) the price paid; (d) the total number in inventory; (e) the total number sold; (f) the price of each sale; (g) the date of each sale.

RESPONDENT shall deliver to B & S prior to March 27, 1981, all copies of catalogs, manuals, and advertisements in its possession that were prepared by or for Lian Feng Machine Co. that contain reference to surface grinding machines that are reproductions, copies, colorable imitations, or simulations of B & S High Precision Surface Grinding Machines that have been sold under the designations 510, 612, 618, 818, 824, 1024, 1030, 1244, and/or 1236.

B & S and the RESPONDENT agree to file a joint motion before the U.S. International Trade Commission to terminate the Investigation with respect to RESPONDENT without prejudice.

B & S agrees to refrain from instituting any civil action for any matters which have been raised in the complaint filed before the U.S. International Trade Commission.

B & S hereby releases the RESPONDENT from any and all claims arising from those issues raised in the B & S Complaint filed in the investigation, including, but not limited to copyright and trademark infringement and unfair competition.

WRITTEN COMMENTS REQUESTED: In order to discharge its statutory obligation to consider the public interest, the Commission seeks written comments from interested persons regarding the effects of terminating this investigation as to respondent Performance Machine Tools on the basis of the settlement agreement on (1) the public health and welfare, (2) competitive conditions in the U.S. economy, (3) the production of like or directly competitive articles in the United States, and (4) U.S. consumers. All written comments must be filed with the Secretary to the Commission no later than 30 days after the date of publication of this notice in the Federal Register. In addition, pursuant to 19 CFR § 210.14(a)(2), the Commission has requested comments from the Department of Health and Human Services, the Department of Justice, the Federal Trade Commission, and the U.S. Customs Service.

ADDITIONAL INFORMATION: The original and 19 copies of all written submissions must be filed with the Secretary to the Commission, 701 E Street NW., Washington, D.C. 20436, telephone 202-523-0161. Any person desiring to submit a document (or portion

thereof) to the Commission in confidence must request *in camera* treatment. Such requests should be directed to the Secretary to the Commission and must include a full statement of the reasons why the Commission should grant such treatment. The Commission will either accept the submission in confidence or return it. All non-confidential written submissions will be available for public inspection at the Secretary's office.

FOR FURTHER INFORMATION CONTACT: Clarease E. Mitchell, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street NW., Washington, D.C. 20436; telephone 202-523-0148.

By order of the Commission

Issued: September 24, 1981.

KENNETH R. MASON,
Secretary.

In the Matter of
DOXYCYCLINE

} Investigation No. 337-TA-3

Notice of Motion To Modify Exclusion Order

AGENCY: U.S. International Trade Commission.

ACTION: Notice is hereby given that the Commission has received a motion to modify the exclusion order issued at the conclusion of the above-captioned investigation. In conformity with section 211.57 of the Commission's Rules of Practice and Procedure (46 FR 17533, Mar. 18, 1981), the motion and this notice will be served on each former party to the investigation. Within 30 days of such service, any former party served may file an answer to the motion.

DATES: Answers to the motion will be considered if received within 30 days of service upon the former party. Answers should conform with section 201.8 of the Commission's Rules of Practice and Procedure (19 CFR § 201.8), and should be addressed to Kenneth R. Mason, Secretary, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436.

SUPPLEMENTARY INFORMATION: On April 12, 1979, the Commission issued an order excluding the importation into the United States of doxycycline falling within claim 10 of U.S. Letters Patent 3,200,149 for the remaining term of the patent except under license. That order is now in force.

On September 2, 1981, Agvar Chemicals, Inc., filed a motion with the Commission seeking modification of the doxycycline exclusion

order to permit the importation of small quantities of doxycycline to be used for testing or research purposes required to obtain Food and Drug Administration certification under 21 U.S.C. § 357, and not for sale to the consuming public.

FOR FURTHER INFORMATION CONTACT: N. Tim Yaworski, Esq., Office of the General Counsel, U.S. International Trade Commission, 701 E Street, NW., Washington, D.C. 20436; telephone 202-523-0311.

By order of the Commission.

Issued: September 23, 1981.

KENNETH R. MASON,
Secretary.

(332-132)

The Relationship of Exports in Selected U.S. Service Industries to
U.S. Merchandise Exports

AGENCY: United States International Trade Commission.

ACTION: In accordance with the provisions of section 332(b) of the Tariff Act of 1930 (19 U.S.C. 1332(b)), the Commission has instituted, on its own motion, investigation No. 332-132 for the purpose of gathering and presenting information on the relationship between the exports of selected U.S. service industries and U.S. merchandise exports. Specifically, the Commission will investigate the level of product exports generated by selected service industries, to include air transportation, computer services, construction and engineering, educational services, equipment leasing services, financial services, franchising, health services, hotel and motel services, telecommunications, and transportation and related services; the implications of international service trade barriers to U.S. goods-producing industries; and the nature of product movements in international markets and foreign shipments of merchandise attributed to existing U.S. services trade.

EFFECTIVE DATE: September 16, 1981.

FOR FURTHER INFORMATION CONTACT: Mr. Larry Brookhart (telephone 202-523-0275), Office of Industries, U.S. International Trade Commission, Washington, D.C. 20436.

WRITTEN SUBMISSIONS: While there are no public hearings currently scheduled for this study, parties wishing hearings may so request. Written submissions from interested parties are invited. Commercial or financial information which a party desires the Commission to treat as confidential must be submitted on separate sheets of paper,

each clearly marked "Confidential Business Information" at the top. All submissions requesting confidential treatment must conform with the requirements of section 201.6 of the Commission's *Rules of Practice and Procedure* (19 CFR 201.6). All written submissions, except for confidential business information, will be made available for inspection by interested persons. To be assured of consideration by the Commission in this study, written statements should be submitted at the earliest practicable date, but no later than March 15, 1982. All submissions and other correspondence related to this investigation should be addressed to the Secretary, United States International Trade Commission, 701 E Street NW., Washington, D.C. 20436.

By order of the Commission.

Issued: September 21, 1981.

KENNETH R. MASON,
Secretary.

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